

**UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF MASSACHUSETTS**

Carl Russell, pro se
Plaintiff

-v-

Franklin County
Franklin County Sheriff, McDonald
Franklin County Sheriff's Department
Franklin County House of Corrections
Superintendent Byron
Deputy Superintendent Sheperd
Deputy Superintendent Hall
Deputy Superintendent Fitzpatrick
Franklin County House of Correction
Medical Department
Nurse Morningstar, Medical Administrator
Department of Homeland Security
Defendant's

CIVIL ACTION
NUMBER

04-30171-MAP

NOW COMES BEFORE, this Honorable Court the Plaintiff, Carl Russell acting in pro se, praying this Honorable Court allows this action being brought forth be heard in this Honorable Court. The above named Defendant's have violated the Plaintiff's Civil Rights under the following Amendments.

The first (1st), Sixth (6th), Eighth (8th), and the Fourteenth (14th) Amendments to the Constitution of the United States. The annexed affidavit is in support of this pleading.

Respectfully Submitted,
Carl Russell, pro se

PROCEDURAL HISTORY

1. The Plaintiff has submitted numerous grievances to no avail. They are never answered in the reference to the matters sought to be brought out here.

Statements of Indigence:

1. The Plaintiff has no money with which to prosecute this matter.
2. Due to the Plaintiffs having no funds to prosecute this matter, the Plaintiff seeks leave of the Court to proceed In Forma Pauperis.

Facts:

1. The Plaintiff swears and deposes that he is in fact Carl Russell.
2. That he is incarcerated presently at the Franklin County House of Corrections
3. That the matters and complaints made here are to the best of his knowledge truthful.
4. The Plaintiff is in fact a Civil Detainee, Being held by the Department of Homeland Security.

COMPLAINTS

1. The Plaintiff is currently housed in what is called the flats at the Franklin House of Correction, which is to say that he is on the bottom tier.
2. The plumbing is so bad that it has in the past 3 days over flowed twice putting into his cell:

- a. Urine, feces, semen and many other disease carrying things, this is a reoccurring thing here
 - b. A lot of the overflow is coming out of the “shower”; this makes for a very unsanitary environment to live in.
 - c. See Jackson-v-Duckworth, 955, Fzd 21,22 (7th Cir.); cells flooded with sewage and foul water were a “clear violation of the eighth (8th) amendment rights allowed inmate”.
3. There are bugs crawling out from under the toilet and ants all over the place and this is the same place the inmates have to eat their meals.
 4. After the overflowing of the sewage, there is a smell that I have to deal with for a week.
 5. There are pipes hanging down all over the place with asbestos on them, which is a known cancer causing agent.
 6. There are no screens and I am being bitten all the time. There are a great many spiders and I and others are getting infectious bites all the time.
 7. I have in my cell Mold and Fungus growing out of the walls. It was painted over and now the mold and fungus is growing out through the paint again.
 8. As in Estelle-v-Gamble, 429 U.S. 97, 50 L. Ed. 2d 251, 97 S.Ct. 285 (1976), “deliberate indifference” to the serious medical needs of an inmate constitute the wanton infliction of the unnecessary infliction of pain.
 - a. The Franklin County House of Corrections has a hardly credible medical department.
 - b. The medical treatment at the facility is next to non existent.

9. I am constantly exposed to leaking and dripping pipes, which are covered in asbestos insulation causing the walkways to constantly be wet and hazardous.
10. There is no protection from inmates beating another inmate up, as there is no monitoring of the cell-blocks, due to the fact that there are no cameras present anywhere. Thus, there is no security.
 - a. I am a Civil Detainee not a criminal one and this is a definite violation of my rights, by subjecting me to be held with sentenced inmates.
11. We have no manner of getting on and off our upper bunks and we had a man fall a little bit ago and break his leg. Due to the fact that they are double bunks with no access ladders.
12. The Law Library at the Franklin House of Corrections is totally inadequate, even given that the County has put in an attorney who can help he can only help with some things:
 - a. The attorney here cannot and will not help anyone with a Civil Matter, as he is a paid part of the County.
 - b. In having had discussions with him, he has stated that he can only do certain things.
 - c. There are no Federal Books of any kind here for anyone to be able to adequately prepare any kind of a case.
 - d. The Plaintiff has no way of assisting himself in any attempts to learn about his case as there is no INS information that the Plaintiff is able to access without assistance being a layman in his knowledge of the law.

SUMMATION

1. The need for basic sanitation is a fundamental human need. See Toussaint-v-McCarty, 597 supp. 1388, 1411, (N. D. Cal. 1984).
2. I and others are denied basic necessities for sanitation, such as, tooth brush, toothpaste, toilet paper (which if you use more than one roll a week they want you to buy your own), and a very small bar of soap to last a month.
3. There is nothing that any place that houses human-beings can do or say that can justify having anyone live in these types of conditions.
 - a. The United States goes into other countries and tells them that they cannot allow people to live in these kinds of conditions, how can they do it to their own people?
4. The Plaintiff finds that he is being subjected to violations of basically every right that he has, and prays this court to take an action to assist him in correcting these violations.

RELIEF SOUGHT

1. The Plaintiff would pray this Court to cause the Franklin County House of Corrections to take immediate action on these issues.
2. The Plaintiff would seek in compensatory damages from the Defendant's an unknown amount which will be decided at a later time.
3. The Plaintiff will also seek Punitive Damages also to be decided at a later time.
4. Such further relief as this Court deems fair and just.

Respectfully Submitted,
Carl Russell, pro se